



1Pw

PTO/SB/21 (09-04)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/694,627	
	Filing Date	October 27, 2003	
	First Named Inventor	Borgmeier et al.	
	Art Unit	3739	
	Examiner Name	L. Cohen	
Total Number of Pages in This Submission	4	Attorney Docket Number	1258.01-6172US ()

ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Response to Notice of Non-Compliant Amendment dated January 20, 2006 <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) ____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks The Commissioner is authorized to charge any additional fees required but not submitted with any document or request requiring fee payment under 37 C.F.R. §§ 1.16 AND 1.17 TO Deposit Account 20-1469 during pendency of this application.		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm	TaskBritt, P.C.		
Signature			
Printed Name	Brick G. Power		
Date	February 14, 2006	Reg. No.	38,581

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Signature			
Typed or printed name	Erika Gandre	Date	February 14, 2006

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Borgmeier et al.

Serial No.: 10/694,627

Filed: October 27, 2003

For: APPARATUS FOR
NONINVASIVELY MEASURING
HEMATOCRIT AND ASSOCIATED
METHODS

Confirmation No.: 2621

Examiner: L. Cohen

Group Art Unit: 3739

Attorney Docket No.: 1258.01-6172US

CERTIFICATE OF MAILING

I hereby certify that this correspondence along with any attachments referred to or identified as being attached or enclosed is being deposited with the United States Postal Service as First Class Mail on the date of deposit shown below with sufficient postage and in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

February 14, 2006
Date

Signature

Erika Gandre
Name (Type/Print)

RESPONSE TO NOTICE OF NON-COMPLIANT AMENDMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Response follows the Notice of Non-Compliant Amendment (37 C.F.R. 1.121) of January 20, 2006, the one month statutory period for response to which is set to expire on February 20, 2006.

In the Notice of Non-Compliant Amendment, it was asserted that a complete listing of the claims was not presented in the Amendment of January 13, 2006. Specifically, the Notice indicates that claim 52 is missing.

A review of the as-filed application indicates that it was filed with fifty-one (51) claims. No additional claims have been introduced in the above-referenced application. Thus, the only

claims that have been presented in the above-referenced application are originally-filed claims 1-51, as amended in the Amendment of January 13, 2006; there is not and has not been a claim 52. Therefore, the listing of the claims that accompanied the Amendment of January 13, 2006, was complete.

Accordingly, it is respectfully requested that the Office correct its records with respect to the claims that are pending in the above-referenced application and withdraw the Notice of Non-Compliant Amendment.

An early and favorable action on the merits of claims 1-20 is respectfully solicited.

If any issues remain that might be resolved by way of a telephone conference, the Office is kindly invited to telephone the undersigned attorney.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Brick G. Power', written over a horizontal line.

Brick G. Power
Registration No. 38,581
Attorney for Applicants
TRASKBRITT, PC
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

Date: February 14, 2006
BGP/eg
Document in ProLaw